

**AGREEMENT BETWEEN
CITY OF SUNNYVALE AND SUNNYVALE NATIONAL LITTLE LEAGUE,
SUNNYVALE/CUPERTINO PONY BASEBALL, SUNNYVALE SERRA LITTLE
LEAGUE, SUNNYVALE METRO LITTLE LEAGUE, SUNNYVALE SOUTHERN
LITTLE LEAGUE AND LAKEWOOD PONY BASEBALL**

THIS AGREEMENT dated _____ is by and between the CITY OF SUNNYVALE, a municipal corporation ("CITY"), and non-profit organizations Sunnyvale National Little League, Sunnyvale/Cupertino Pony Baseball, Sunnyvale Serra Little League, Sunnyvale Metro Little League, Sunnyvale Southern Little League and Lakewood Pony Baseball ("LEAGUES").

WHEREAS the CITY desires to support independent organizations providing services beneficial to the Community; and

WHEREAS the LEAGUES wish to provide non-profit services to Sunnyvale youth not otherwise offered or duplicated by the City of Sunnyvale; and

WHEREAS the LEAGUES wish to use various sports fields and facilities maintained by the City of Sunnyvale for that purpose on a priority basis; and at a cost reduced from that dictated by established CITY facility rental rates, and;

NOW THEREFORE, in accordance with the City's Relationships with Outside Groups Policy, the CITY and the LEAGUES enter into this agreement.

1. Obligations of CITY

CITY shall provide the LEAGUES, collectively, first priority reservation, after CITY scheduled activities and consistent with CITY policy on facility use, of athletic fields, park buildings and concession stands ("snack shacks") for two days in January for tryouts and from March 1 through July 31 each year. These facilities will only be used for the purpose of regular baseball and softball season league meetings, all-star tryouts, practices and games including one tournament not to exceed three days in length.

CITY shall make the priority reservations for the sports fields and buildings by January 1 of the prior year for the following year's permits, and shall notify each LEAGUE of their availability during the December annual meeting. Any changes in the availability of the facilities compared to the prior year will be noted by CITY and shared with the LEAGUES.

CITY shall provide LEAGUES a list of CITY owned structures in which storage space is available and a list of CITY facilities where LEAGUES can place

a storage container. Any changes in the availability of storage areas compared the prior year will be noted by CITY and shared with LEAGUES.

CITY shall provide, at no cost, the use of a reserved picnic area at neighborhood parks for up to 2 days in each calendar year for each LEAGUE for the purpose of the individual LEAGUE opening and closing day celebrations.

CITY shall charge each individual LEAGUE for all permits from January 1 through July 31 in April. CITY shall charge each LEAGUE for all permits from August 1 through November 30 in September.

CITY shall facilitate an annual meeting with LEAGUES each December for the purpose of distributing the initial permits for the upcoming season and discussing topics relevant to the CITY's and LEAGUES associated activities.

CITY shall provide an annual training session to LEAGUES regarding the proper care and maintenance of athletic facilities.

CITY shall notify the individual LEAGUE if permitted facilities are or will need to be closed for any reason during the season, and attempt to accommodate the individual LEAGUE if possible, and provide alternate facilities if available.

CITY shall list each individual LEAGUE'S contact information in the Department of Parks and Recreation Activity Guide.

CITY shall provide each individual LEAGUE up to 6 keys to each of the facilities that they reserved.

2. Obligations of LEAGUES

LEAGUES shall provide all activities and programs associated with the planning, organizing, scheduling and hosting of league games, practices and associated activities at no cost to the City.

LEAGUES shall comply with all CITY facility use policies and provide facility maintenance in accordance with the Sunnyvale Department of Parks and Recreation's Athletic Facility Use Guide.

Specific times and dates reserved facilities are to be used by each individual LEAGUE will be determined by the LEAGUES, collectively, and reported back to the CITY by March 1 each year. Each LEAGUE shall provide written notice to CITY as early as possible each calendar year and no later than March 1, of the release of any permitted athletic field time or to request additional permitted athletic field time from January 1 through July 31. The

same notice shall be provided by September 1 for permitted athletic field time for August 1 through November 30. Permits that are not cancelled according to CITY reservation policies will be subject to payment.

Any athletic field time that is requested after the March 1 deadline for the spring season, and after the September 1 deadline for the fall season, will be subject to all regular facility reservation policies including rental fees, according to the facility rental rate schedule in effect at that time. Payment for fields reserved after the deadlines shall be made directly with reservations staff at the time the reservation is made. One exception to the March 1 deadline will apply when an official extension of the season is warranted should a Sunnyvale team be qualified during the season to participate in regional or national playoffs and additional field time is required. In such cases, reservations should be made through the Recreation Coordinator responsible for sports programs.

Each LEAGUE shall provide rental fees to use the athletic fields provided under the terms of this agreement at one dollar (\$1) per hour per field and two dollars (\$2) per hour per field when using lights. This fee will be reviewed annually and revised if warranted. Rental fees for park buildings shall be according to the facility rental rate scheduled in effect at the time of the invoice.

Each LEAGUE shall provide payment to the CITY within four weeks of receipt of the invoice. Fees paid for facilities not used due to conditions beyond their control shall be credited towards fees owed in the following year.

LEAGUES are specifically prohibited from re-permitting any facility provided within this agreement to any other organization without first obtaining written approval from the CITY.

Each LEAGUE shall have the coordinator of its divisions/levels and its President and Vice-President, or their representative, in attendance at the annual athletic field maintenance training day conducted by the CITY.

Each LEAGUE shall leave all facilities used in the same or better condition than they were found on a daily use basis and shall never use facilities when the CITY designates them as "Closed."

Each LEAGUE shall repair, replace or pay for damage to City facilities or equipment furnished by CITY, at the discretion of the CITY, if damage occurred during use by LEAGUE.

Each LEAGUE shall make all special requests in writing, including but not limited to requests for additional storage space, improvements and/or

modifications of any kind to CITY facilities and the placement of banners advertising LEAGUE'S activities.

Each LEAGUE shall be responsible for storage, care, custody or control of its own equipment, materials and furnishings.

Each LEAGUE shall provide proof of non-profit status, and shall remain non-profit during the life of this agreement.

Each LEAGUE shall maintain a membership of at least 51% Sunnyvale residents for both players and Board of Directors. Each LEAGUE shall provide CITY with a player roster each season, noting the residency of every player and board member, no later than March 1 each year. If percent of Sunnyvale residents in the membership is expected to fall below 51%, a special request for an exception to this requirement must be submitted in writing to CITY for approval.

Each LEAGUE shall utilize concession facilities ("snack shacks") only for the purpose of sale of concessions, food, beverages or merchandise and only during times the LEAGUE has permitted use of associated fields. As of August 1 each year the facilities must be cleaned and all of the LEAGUE'S possessions shall be removed.

Each LEAGUE shall reimburse cost to CITY to replace lost or missing keys and to re-key facilities under the use of LEAGUE, when necessary for security purposes.

The LEAGUES shall add new individual leagues as members of the group when it is determined by the CITY that the new league should be included as part of the group. This agreement will be adjusted as appropriate to accommodate the new LEAGUE.

3. Conflicts of Interest

No officer or employee of CITY shall have any interest, direct or indirect, in this Agreement or in the proceeds thereof. During the term of this Agreement members of each individual LEAGUE shall not accept employment or an obligation which is inconsistent or incompatible with LEAGUES obligations under this Agreement.

4. Compliance with Laws

a) Each LEAGUE shall not discriminate against any employee or applicant for employment because of race, religion, creed, color, gender, age (persons 40 years of age or older), disability, national origin, or any other basis to the extent prohibited by federal, state or local law.

b) Each LEAGUE shall comply with all federal, state, county and city laws, statutes, ordinances, rules and regulations and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting performance of the Agreement.

5. Indemnity

Each individual LEAGUE agrees to indemnify, defend and hold harmless CITY, its officers and employees from any and all claims, demands, actions, causes of action, losses, damages, liabilities, known or unknown, and all costs and expenses, including reasonable attorneys' fees in connection with any injury or damage to persons or property arising out of or in any way connected with the act, omission or negligence of such LEAGUE, its officers, employees, agents, subgroups or any officer, agent or employee thereof in relation to each LEAGUE's performance under this Agreement.

6. Insurance

Each individual LEAGUE shall, at own cost, take out and maintain without interruption during the life of this Agreement in such form and with a company or companies satisfactory to the CITY policies of the following types of insurance:

(a) Combined single limit coverage applying to bodily and personal injury liability, including liability for death, and property damage, or a combination thereof, in an amount not less than One Million Dollars (\$1,000,000) providing coverage on an "occurrence" basis and not an "accident" basis; provided, however, as follows:

- (1) CITY shall be named as an additional insured in all insurance policies;
- (2) A contractual liability endorsement shall be included in each insurance policy, extending coverage to include liability assumed under paragraph 5 above; and,

(b) Worker's compensation insurance and employer's liability insurance for all employees of Licensee.

7. CITY Representative

The Director of Sunnyvale Parks and Recreation or his/her designee, shall represent CITY as the City Manager's authorized representative in all matters pertaining to the services to be rendered under this Agreement. All requirements of CITY pertaining to the services and materials to be rendered under this Agreement shall be coordinated through the CITY representative.

8. LEAGUES Representative

The Presidents of each individual league shall collectively represent LEAGUES in all matters pertaining to the services and materials to be rendered under this Agreement; all requirements of LEAGUES pertaining to the services or materials to be rendered under this Agreement shall be coordinated through the representatives of each LEAGUE.

9. Notices

All notices required by this Agreement shall be in writing, and shall be personally delivered, sent by first class mail with postage prepaid, or by commercial courier, addressed as follows:

To CITY: City Manager
CITY OF SUNNYVALE
P. O. Box 3707
Sunnyvale, CA 94088-3707
(408) 730-7480

TO LEAGUES:

Sharon Zolezzi, President
Sunnyvale National Little League
220 Clarence Ave.
Sunnyvale, CA 94086
(408) 398-7705

Doug Warmke, President
Sunnyvale Southern Little League
1058 Susan Way
Sunnyvale, CA 94087
(408) 739-2356

Kevin Fitzpatrick, President
Sunnyvale Serra Little League
260 S. Sunnyvale Ave, Suite 5
Sunnyvale, CA 94086
(408) 736-0565

Bob Greene, President
Lakewood Pony Baseball
899 Dwight Avenue
Sunnyvale, CA 94086
(408) 230-8960

Art Downs, President
Sunnyvale/Cup. Pony Baseball
10349 Mary Ave.
Cupertino, CA 95014
(408) 982-1589

Jeff Farrell, President
Sunnyvale Metro Little League
1044 Fernleaf Drive
Sunnyvale, CA 94086
(408) 243-0136

Nothing in this provision shall be construed to prohibit communication by more expedient means, such as by telephone or facsimile transmission, to accomplish timely communication. However, to constitute effective notice, written confirmation or a telephone conversation or an original of a facsimile

transmission must be sent by first class mail, by commercial carrier, or hand-delivered. Each party may change the address by written notice in accordance with this paragraph. Notices delivered personally shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated as of three days after mailing, unless such date is a date on which there is no mail service. In that event communication is deemed to occur on the next mail service day.

10. Assignment

Neither party shall assign or sublet any portion of this Agreement without the prior written consent of the other party.

11. Duration of Agreement

This Agreement shall continue until such time as terminated in accordance with section 13 below.

12. Termination

(a) If LEAGUES default in the performance of this Agreement, or materially breaches any of its provisions, CITY at its option may terminate this Agreement by giving written notice to LEAGUES.

(b) Without limitation to such rights or remedies as CITY shall otherwise have by law, either party shall have the right to terminate this Agreement for any reason upon ninety (90) days' written notice to the other party. If CITY terminates the Agreement; CITY shall reimburse LEAGUES for its expenses directly related to facility fees that were paid by LEAGUES for use that has not yet occurred. If LEAGUES terminate the Agreement; CITY shall reimburse LEAGUES for its expenses directly related to facility fees that were paid by LEAGUES for use that has not yet occurred, according to the CITY facility reservation cancellation policy in effect at the time of the termination.

13. Entire Agreement; Amendment

This writing constitutes the entire agreement between the parties relating to the services to be performed or materials to be furnished hereunder. No modification of this Agreement shall be effective unless and until such modification is evidenced by writing signed by all parties.

14. Miscellaneous

Time shall be of the essence in this Agreement. Failure on the part of either party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or any other

provision. This Agreement shall be governed and construed in accordance with the laws the State of California.

IN WITNESS WHEREOF, the parties have executed this Agreement.

ATTEST: CITY OF SUNNYVALE ("CITY")

City Clerk

By _____
City Manager

APPROVED AS TO FORM: "LEAGUES" (various leagues)

City Attorney

By Sharon Zolezzi
Sharon Zolezzi, President
Sunnyvale National Little League

By Jeff Farrell
Jeff Farrell, President
Sunnyvale Metro Little League

By Douglas W Wamke
Doug Wamke, President
Sunnyvale Southern Little League

By Art Downs
Art Downs, President
Sunnyvale/Cupertino Pony Baseball

By Kevin Fitzpatrick
Kevin Fitzpatrick, President
Sunnyvale Serra Little League

By Bob Greene
Bob Greene, President
Lakewood Pony Baseball